

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY MAX LAWHEAD, JR.,

Petitioner,

Civil Action No.

-vs.-

Hon.
United States District Court Judge

BRYAN MORRISON/Warden,

Hon.
United States Magistrate Judge

Respondent.

Laura Kathleen Sutton (P40775)
Attorney for Petitioner Lawhead

Michigan Attorney General
Attorney for Respondent

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Larry Max Lawhead, Jr., by and through his attorney, Laura Kathleen Sutton (P40775), petitions this Honorable Court to grant him a Writ of Habeas Corpus, pursuant to 28 U.S.C. §2254, and states the following in support:

1. Mr. Lawhead is a citizen of the United States.
2. Mr. Lawhead is a resident of the State of Michigan, currently domiciled in the Lakeland Correctional Facility in Coldwater, Michigan 49036. Mr. Lawhead's state prison identification number is 355964.
3. Lakeland Correctional Facility is a correctional facility operated by the State of Michigan. Respondent Bryan Morrison is the Warden of the correctional facility and is the person currently holding Mr. Lawhead in custody.

4. On February 15, 2017, Larry Max Lawhead, Jr. was convicted of first-degree criminal sexual conduct, M.C.L. §750.520(B)(2)(B) and one count of second-degree criminal sexual conduct, M.C.L. §750.(C)(2)(B); following a jury trial. The two convictions allegedly arose from a couple of encounters in the summer of 2011 when the Complainant was under the age of thirteen. Petitioner did not testify on his own behalf.

5. The trial was held in the Calhoun County Michigan Circuit Court. On April 3, 2017, trial judge, the Honorable John A. Hallacy, imposed concurrent sentences of twenty-five [25] to fifty [50] years in prison for the first-degree criminal sexual conduct conviction and a sentence of three years, two months [38 months] to fifteen years for the second-degree criminal sexual conduct conviction. The Judgment of Sentence was formally signed and entered on April 4, 2017.

6. Venue is proper in this Court because Mr. Burch was convicted in Calhoun County, Michigan, Circuit Court which is in the Western District.

7. Mr. Lawhead has exhausted his state remedies with regard to the claims contained in this Habeas Corpus Petition. Those claims are:

- A. **LARRY MAX LAWHEAD, JR. WAS DEPRIVED OF HIS SIXTH AMENDMENT RIGHTS TO PRESENT A DEFENSE AND TO CONFRONTATION WHERE THE TRIAL COURT PRECLUDED HIM FROM PRESENTING EVIDENCE OF HIS ACCUSER ALLEGING SEXUAL ASSAULT INVOLVING OTHER ACTORS WITHOUT FIRST ALLOWING MR. LAWHEAD THE OPPORTUNITY TO PRESENT PROOFS AT AN IN-CAMERA HEARING.**
- B. **LARRY MAX LAWHEAD, JR. WAS DENIED HIS CONSTITUTIONAL RIGHT TO A FAIR TRIAL BY THE ADMISSION OF SIMILAR ACTS TESTIMONY FROM A PENDING CASE.**

- C. **LARRY MAX LAWHEAD, JR. WAS DENIED HIS SIXTH AMENDMENT RIGHT TO THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL WHERE COUNSEL FAILED TO INTERVIEW SEVERAL KEY WITNESSES AND FAILED TO CHALLENGE THE INTERVIEW PROTOCOL UTILIZED IN THIS CASE.**
- D. **LARRY MAX LAWHEAD, JR. WAS DENIED HIS SIXTH AMENDMENT RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL ON HIS DIRECT APPEAL.**
- E. **LARRY MAX LAWHEAD, JR. HAS REQUESTED AN EVIDENTIARY HEARING ON HIS INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS IN THE STATE COURTS AND HIS REQUEST HAS BEEN SUMMARILY DENIED. THIS COURT SHOULD HOLD A HEARING TO PREVENT A MISCARRIAGE OF JUSTICE.**

8. Mr. Lawhead has exhausted his state remedies as to the issues presented herein. He exhausted his state court remedies by taking the following steps:

- a. On May 29, 2018, the Michigan Court of Appeals affirmed the convictions in an unpublished PER CURIAM opinion. [*People v. Larry Max Lawhead, Jr.*, C.O.A. File No. 338063]. On October 30, 2018, the Michigan Supreme Court denied leave to appeal by order, thus concluding the appeal by right. [*People v. Larry Max Lawhead, Jr.*, M.S.C. File No.157976], thus concluding Mr. Lawhead's appeal by right.
- b. On March 6, 2019 Mr. Lawhead's Motion for Relief from Judgment was received by the Calhoun County Circuit Court. On March 20, 2019 Judge Hallacy denied the motion and its accompanying request for an evidentiary hearing. Mr. Lawhead timely filed a delayed application for leave to appeal in the Michigan Court of Appeals on April 29, 2019 and denied by Court Order on August 29, 2019. Mr. Lawhead filed an application for leave to appeal with the Michigan Supreme Court on October 10, 2019 which was denied by Court Order on December 22, 2020.

9. Mr. Lawhead asserts that his convictions and thereby the ensuing sentences were obtained in violation of rights secured by the United States Constitution.

10. Mr. Lawhead asserts that the state courts' treatment of his case "resulted

in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States” or was based on an “unreasonable determination” of the facts in light of the evidence presented in the state court. 28 U.S.C. §2254(d)(1) and (d)(2), i.e., the AEDPA standards.

11. Mr. Lawhead does request discovery and evidentiary hearings, if necessary.

12. Mr. Lawhead has not filed any previous Petition for Writ of Habeas Corpus in this or any other federal district court.

13. This petition is timely brought within the one-year statute of limitations for habeas corpus actions under 28 U.S.C. §2244(d)(1)(a).

14. Petitioner, Larry Max Lawhead, Jr. incorporates by reference the Brief in Support of Petition for Writ of Habeas Corpus.

RELIEF REQUESTED

WHEREFORE, Petitioner Larry Max Lawhead, Jr. respectfully requests this Honorable Court to grant the following relief:

- a. Require Respondent to appear and answer the allegation made in this Petition;
- b. Grant oral argument, grant discovery, and/or hold evidentiary hearings as necessary and requested in this matter;
- c. Grant such other, further, and different relief as the Court may deem just and proper under the circumstances; and,
- d. After full consideration, relieve Petitioner Larry Max Lawhead of the unconstitutional restraint on his liberty.

Respectfully submitted,

S/LAURA KATHLEEN SUTTON

P.O. Box 388

Manchester, Michigan 48158

(734) 428-7445

lksappeals2@aol.com

(P40775)

Dated: November 15, 2021.

CERTIFICATE OF SERVICE

I hereby certify that on November 15, 2021, I electronically filed the foregoing petition with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Michigan Attorney General Dana M. Nessel (P51346)
Appellate Division.

I also certify that I mailed a copy of the foregoing petition in the traditional manner to:

Petitioner Larry Max Lawhead, Jr.

S/LAURA KATHLEEN SUTTON
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Manchester, Michigan 48158
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Dated: November 15, 2021.